

**ARIZONA STATE PERSONNEL BOARD
MEETING MINUTES
NOVEMBER 16, 2016**

The Arizona State Personnel Board meeting was called to order by Joe Beers at 11:03 a.m. The meeting was held at 1400 West Washington Street, Suite 280, Phoenix, Arizona. Board members in attendance were Kevin Donnellan, Chad Kirkpatrick and Mark Ziska. Staff members present were Jeff Bernick as Counsel for the Board, Laurie Barcelona, Executive Director and Robin Van Staeyen, Administrative Assistant II.

The board called for comments from the public. There being no public comments, Mark Ziska moved to adopt the minutes from the October 18, 2016 meeting. Kevin Donnellan seconded the motion which carried unanimously.

The board considered the prohibited personnel practice complaint of **Elizabeth Grigg vs. Department of Economic Security, et al.**

Ms. Grigg stated that she wanted to set the record straight from numerous newspaper articles that have been published regarding this case where Mr. Jefferies, the director of the department, called her a liar when she claimed that he ordered her to terminate six employees on her team, but there were three witnesses in the room when that conversation took place. Ms. Grigg continued to explain that she has been accused of being biased against minorities, but she hired and promoted men and women who were Indian, Black and Hispanic and terminated two white males. Furthermore, she had good annual performance reviews and received merit bonuses in both years that they were offered, she was promoted during her tenure and was in the process of another promotion transition when she was terminated. Ms. Grigg stated that she didn't believe she did anything to deserve being terminated.

Anna Dahlquist, Assistant Attorney General representing the Department of Economic Security, stated that the hearing officer found that the complaint was deficient in satisfying the requirements of A.R.S. 38-532 and requested the board uphold the hearing officer's findings.

There being no discussion, Chad Kirkpatrick proposed the following motion:

"I move that the Hearing Officer's Findings of Fact and Conclusions of Law be adopted as the board's own. I further move that the respondent's Motion to Dismiss be granted as the board does not have the jurisdiction to hear the complaint."

Mark Ziska seconded the motion which carried unanimously.

Next, the board considered the dismissal appeals of **JC Queen & Patricia Sanchez-Valdez vs. Department of Corrections.**

Kathryn Baillie, Attorney at Law representing JC Queen and Patricia Sanchez-Valdez, opened by stating that the allegations made against both of her clients for improper weapon exchanges stem from February 19, 2016 while providing hospital security of an inmate. Ms. Baillie stated that Nielson and Sanchez-Valdez worked a shift together and that the hearing officer is incorrect in his report regarding the exchange of weapons between Nielson and Sanchez-Valdez. Continuing, Ms. Baillie explained that Nielson picked up his weapon, as well as the weapon for Sanchez-Valdez at the armory and he "transferred" the weapon to Sanchez-Valdez upon his arrival to the hospital; because Nielson and Sanchez-Valdez were co-workers and it was a "transfer" of weapons and not an "exchange of weapons" according to Post Order policy. Ms. Baillie stated that the hearing officer used the decision of the internal affairs investigator, but that was not what was testified to by Nielson at the hearing. According to Nielson's testimony his "transfer" of the weapon to Sanchez-Valdez was appropriate.

Later, Lewis and Queen arrived at the hospital to relieve Nielson and Sanchez-Valdez of duty and Lewis made a weapons exchange with Sanchez-Valdez as explained by Ms. Baillie. On February 23, 2016 Lewis was informed of an investigation and was asked to write a report of the details of the exchange of weapons and he submitted his report the same day, but Sanchez-Valdez was not notified of an investigation until February 25, 2016 and submitted her report on February 28, 2016; however Lewis claimed that Sanchez-Valdez had called him to lie about the location of the exchange. Ms. Baillie stated that Lewis had submitted his report two days before Sanchez-Valdez had even been notified of the investigation.

Continuing, Ms. Baillie stated that the next shift was Trujillo and France and Queen admitted that he did not do a proper weapons exchange with Trujillo when he came to relieve him of duty, but Trujillo was not disciplined for the improper weapons exchange. Lewis was relieved from duty by France and claimed that the weapons exchange between him and France was also improper, but France was not disciplined either.

Both Lewis and Nielson changed their stories, as stated by Ms. Baillie, after they had a meeting with the warden and it was speculated that the department wanted to go after Sanchez-Valdez because she had prevailed against the department in an earlier Equal Employment Opportunity claim.

James Green, Assistant Attorney General representing the Department of Corrections, stated Sanchez-Valdez and Queen were terminated for improper weapons exchanges, providing false statements during an administrative inquiry, making false statements to an investigator during an administrative investigation and Sanchez-Valdez encouraged others to lie during the course of their administrative investigations. The department learned of the improper exchanges from Trujillo who had never worked that facility

before and relied on Queen to tell him the procedure. Mr. Green explained that during the weapons exchange that Trujillo had with Queen, Trujillo noticed a missing round and he wrote a report about it, which led to an administrative inquiry and Nielson, Sanchez-Valdez, Queen and Lewis all provided false statements. After separately meeting with the warden, Nielson and Lewis changed their story to tell the truth, but Sanchez-Valdez and Queen continued to lie and Sanchez-Valdez called Lewis and Nielson to try to convince them to lie. Nielson and Lewis were disciplined for providing false statements and improper weapon exchanges.

Chad Kirkpatrick requested confirmation of discipline for Nielson and Lewis. Mr. Green answered in the affirmative. Mr. Kirkpatrick inquired as to any proof there might be of Sanchez-Valdez calling the others to convince them to lie. Mr. Green said that they testified at the hearing to that fact and they would not have any reason to make it up. Mr. Kirkpatrick asked about the differences in statements made in administrative inquiry and the administrative investigation. Mr. Green stated that after the administrative inquiry, the warden was convinced that there were improper weapon exchanges so he met with Nielson and Lewis and said he could pull the surveillance tapes and that is when they decided to tell the truth. Then, during the administrative investigation they were completely honest, whereas Sanchez-Valdez and Queen stuck with their lies. Ms. Baillie stated that Sanchez-Valdez is being accused of asking Lewis to lie when he had already turned in his response before she even knew about the investigation. Further, she claimed that Nielson and Lewis would say anything to the warden if it meant keeping their jobs, but Sanchez-Valdez and Queen were never asked to meet with the warden. Queen had no reason to lie and had already admitted to doing a weapons exchange in a vacant room, but the department claims he did the exchange in a bathroom with Nielson and, yes, Sanchez-Valdez and Queen are heard in the audio tape as being frustrated during the interview because they are not being believed. Mr. Green stated when you listen to the audio recording their story is not consistent with testimony at the hearing. Ms. Baillie stated that in defense of her clients, she had a small window to gather information from her clients so that she could write an appeal notice and submit it to the board in a timely manner, but her clients should not be penalized for what she wrote, which was inaccurate.

Mark Ziska asked if the dates could be clarified. Mr. Green stated that it is complicated, but the weapons exchange took place on February 19, 2016 and with every shift change there is a weapons exchange. Ms. Baillie stated that Nielson and Sanchez worked together and were relieved by Queen and Lewis and then they were relieved by Trujillo and France. Nielson does a weapons exchange with Queen and Lewis does a weapons exchange with Sanchez-Valdez. Trujillo and Queen do a weapons exchange in an empty room because Nielson and Sanchez left with the van, which had the ballistic pad. Mr. Green stated that was not true. Mr. Ziska asked if there was a ballistic pad available for Sanchez-Valdez and Lewis when they made their exchange. Mr. Green said that the ballistic pad stayed at the hospital and never went back to the van and that the ballistic pad and two clearing barrels were never used, which is a culture at this

hospital. Ms. Baillie said that this is allegedly what happened, but Queen told the truth about not using the ballistic pad. Lewis wrote a statement in the Assistant Deputy Warden's office, which was not provided to Ms. Baillie, but Lewis testified at the hearing that the statement he gave to the Assistant Deputy Warden was the same statement he gave on February 23, 2016, which stated that a ballistic pad was used, but changed his story after he talks to the warden. Mr. Green stated that Nielson and Lewis decided to come clean, but Sanchez-Valdez and Queen continue to lie about it.

Chad Kirkpatrick asked why Lt. Trujillo did not know the process of weapons exchange. Mr. Green stated that Lt. Trujillo was working overtime and volunteered to go to the hospital and was not familiar with the facility and relied on Queen, who told him there was no access to a cleaning barrel or ballistic pad, but he recognized that that was wrong and wrote a report.

Mark Ziska made a motion for the board to go into executive session and Chad Kirkpatrick seconded the motion, which carried unanimously. The board went into executive session at 11:50 a.m. and was back in open session at 12:06 p.m.

Mark Ziska proposed the following motion:

"I move that we continue this case to the next regular scheduled board meeting to give more time to review the documents."

Kevin Donnellan seconded the motion which carried unanimously.

The board then considered scheduling future board meetings. Joe Beers proposed the following motion:

"I move we hold our next regularly scheduled open public meetings of the Board on the 15th day of December at 1:30 p.m. with an executive session at 2:00 o'clock p.m. at 1400 West Washington Street, Suite 280, Phoenix, Arizona, 17th day of January, 15th day of February and 15th day of March at 11:00 o'clock a.m. at 1400 West Washington Street, Suite 280, Phoenix, Arizona, and an executive session on the same dates at the same location at 10:30 a.m."

Chad Kirkpatrick seconded the motion which carried unanimously.

There being no further business before the board, Chad Kirkpatrick proposed the meeting be adjourned. Kevin Donnellan seconded the motion which carried unanimously. The meeting adjourned at 12:09 p.m.

(Quotations of board members in these minutes have been reviewed by staff for grammatical content, and certain grammatical changes may have been made by staff administratively. No changes to content have been made by staff administratively or otherwise.)

Respectfully submitted:

Robin Van Staeyen

Robin Van Staeyen, Administrative Assistant II
Arizona State Personnel Board

December 1, 2016

Date Prepared